HONOURABLE SRI JUSTICE J. CHELAMESWAR
AND
HONOURABLE SRI JUSTICE D. APPA RAO

W.P.NO. 11151 of 2006

Dated: 09.06.2006

Between:-

M/s Torus India Limited, having its office at Vijayawada
Represented by its Managing Director, Mr. K.S. Rama Rao
S/oK.V. Subba Rao Chowdhary, aged about 55 years.

…Petitioner

And

The Commercial Tax Officer, Benz Circle, Vijayawada
and 3 others.

…Respondents

HONOURABLE SRI JUSTICE J. CHELAMESWAR
AND
HONOURABLE SRI JUSTICE D. APPA RAO

W.P.NO. 11151 of 2006

O R D E R (Per Hon'ble Sri Justice D.Appa Rao)

A garnishee notice, dated 15.05.2006 issued by the 1st respondent to 4th respondent to pay a sum of Rs. 12,57,441/- as being tax for the assessment years 2002-2003 and 2003-2004 under the APGST Act, 1957 is under challenge in this writ petition.

The assessments pertain to years 2002-2003 and 2003-2004. The learned counsel for the petitioner submitted that for the assessment year 1995-1996 and 2002-2003 when garnishee order was passed, he filed W.P. No. 28058 of 2005. The writ petition was disposed of by order, dated 04.01.2006 directing that there shall be stay till the disposal of the appeals with regard to the assessment years 1995-1996 and 2002-2003, subject to payment of Rs. 10,00,000/-. The petitioner has complied with the directions issued by this Court. Accordingly, the 4th respondent remitted a sum of Rs. 10,00,000/- to the first respondent. However, in the meantime, the appellate Deputy Commissioner dismissed the appeal. Against which, he preferred an appeal before the Sales Tax Appellate Tribunal. The stay application filed before it was also rejected. As against the assessment order for the year 2003-2004, he preferred an appeal. However, the stay application filed by him was rejected. It is his further case that an amount of Rs.3,15,000/- available for adjustment with the

first respondent will effectively reduce payment of 50% of the tax.

After hearing both the learned counsel, we pass the following the order in the interest of justice.

The controversy is that pending appeals, applications for stay were dismissed by the competent authority. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability.

There shall be stay till the disposal of appeals with regard to the assessment years 2002-2003 and 2003-2004, subject to the deposit of payment of Rs.6,00,000/-. We also make it clear that the competent authority has to verify about refund of the amount claimed and on such entitlement, give credit towards the liability. Since a garnishee order has already been passed and 4th respondent has been ordered not to make payments to the petitioner, we direct the 4th respondent to transfer Rs.6,00,00/- to the 1st respondent and on such transfer the garnishee notice stands quashed.

The writ petition is accordingly disposed of. No order as to costs.

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J. CHELAMESWAR,J

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D. APPA RAO, J

Dated: 09.06.2006
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